

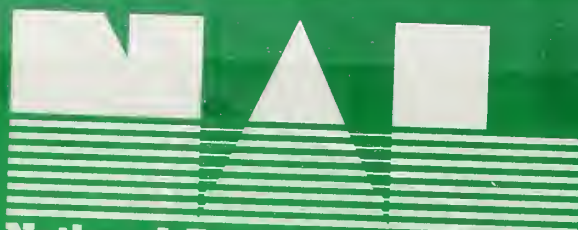
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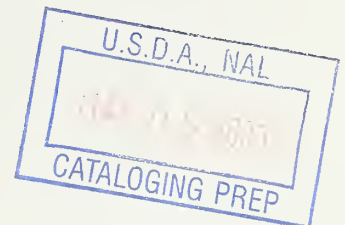
North Fork Coal

Elk Creek Coal Lease Tract (COC-61357)



U.S.D.A., Forest Service, Region 2
Grand Mesa, Uncompahgre and Gunnison National Forests

Portions of Gunnison, and Delta Counties
Colorado



Approved by:



Robert L. Storch
Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests

3/27/00
Date

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I. INTRODUCTION

Background

In November of 1997, Oxbow Mining (Oxbow) filed a coal lease application with the U.S. Department of the Interior, Bureau of Land Management (BLM), Colorado State Office for lands located in Delta and Gunnison counties, Colorado. Oxbow's coal lease application was amended by the BLM during tract delineation. The Elk Creek Coal Lease Tract contains a mixture of federal (BLM and U.S. Department of Agriculture, Forest Service, Grand Mesa-Uncompahgre-Gunnison National Forests (Forest Service)) and private surface ownership. The coal is federally owned. Figure 1, General Location Map, shows the general location of the lease area. Figure 2, Elk Creek Coal Lease Tract, shows the area in more detail.

Three federal coal applications were pending before the agencies: the Iron Point Exploration license application (COC-61945), the Iron Point Coal Lease Tract Application (COC-61209) and the Elk Creek Coal Lease Tract Application (COC-61357). The BLM and the Forest Service determined that the requirements of the National Environmental Policy Act (NEPA) would be best served by preparing a consolidated Environmental Impact Statement (EIS) on the three actions. The BLM and Forest Service are joint lead agencies for the document. The Department of the Interior, Office of Surface Mining is a cooperating agency.

The North Fork Coal Draft EIS was made available to the U.S. Environmental Protection Agency (EPA) and the general public on September 3, 1999, and Notice of Availability for the Draft EIS was published in the Federal Register on that same date. The formal comment period on the Draft EIS ended on November 3, 1999. The Final EIS was made available to EPA and the public on February 25, 2000. The Notice of Availability for the Final EIS was published in the Federal Register on that same date.

Decisions to be Made/Authorities

This Record of Decision (ROD) documents findings specific to actions related to leasing Federal coal reserves on National Forest System Lands administered by the Grand Mesa, Uncompahgre, and Gunnison National Forests (GMUG) as analyzed in the North Fork Coal Final EIS. This ROD documents Forest Service decisions including terms and conditions of any consent for the BLM, Colorado State Office, to lease lands on the GMUG for underground coal mining.

The BLM participated in the analysis as a joint lead agency. The Colorado State Director (BLM Responsible Official) will document the BLM decisions with regard to this leasing in a separate and distinct ROD. The Forest Supervisor of the GMUG is the NEPA Responsible Official for the Forest Service. The Forest Supervisor must decide whether or not to consent to the BLM the leasing of National Forest System Lands according to the Federal Coal Leasing Amendments Act of 1975 (MLA)(Final EIS Section 1.5). The Forest Supervisor must also prescribe terms and/or conditions (through lease stipulations) with respect to the use and protection of non-mineral interests. The decisions made by the Forest Service are site-specific. Such decisions are not programmatic and do not change Forest Plan direction for management of minerals or other resources in the lease tract area.

This decision does not encompass all resource management practices that may occur within the project area. Previous environmental documents, past and ongoing activities, and

reasonably foreseeable activities were identified and included in cumulative effects analyses presented in the Final EIS. Future resource management proposals within the area would have to be considered on their own merits in subsequent decision making.

If the coal lease is issued and before any mining or surface development could occur, the lessee or operator would be required to submit a Permit Application Package (PAP). The Surface Mining Control and Reclamation Act (SMCRA) gives the Office of Surface Mining (OSM) primary responsibility to administer programs that regulate the surface effects of underground coal mining. Pursuant to Section 523(c) of SMCRA, the Colorado Department of Minerals and Geology (DMG) entered into a cooperative agreement with the Secretary of the Interior authorizing the Colorado DMG to regulate the surface effects of underground mining on federal lands within the state of Colorado. Pursuant to the cooperative agreement, a federal coal lease holder in Colorado must submit a PAP to both OSM and the Colorado DMG for any proposed coal mining and reclamation operation on lands within the state.

As part of the Colorado DMG permitting process, a new mining and reclamation plan or an amendment to an existing plan would be developed to show how lands in the lease tract and private/other federal owned coal would be mined and reclaimed. Specific impacts that would occur during mining would be addressed in the permit or revision, and specific mitigation measures for anticipated impacts would be identified at that time.

The OSM, BLM, Forest Service and other appropriate federal agencies would review the PAP to ensure that it complies with terms of the coal lease (including any special conditions of approval), the Mineral Leasing Act, NEPA, and other federal laws and their attendant regulations.

The lessee or operator would be required to obtain numerous other permits and approvals prior to developing any coal. Please refer to the Final EIS, Appendix B, Agency Jurisdictions (Permits and Approvals).

Overview of the Project Area

The Elk Creek Coal Lease Tract (COC-61357) contains the following lands in Delta and Gunnison counties.

T12S, R90W, 6th PM:

Section 31, lots 1 to 14, inclusive, and NE $\frac{1}{4}$;
Section 32, lots 3 to 6, inclusive, lots 11 to 14, inclusive, and NW $\frac{1}{4}$.

T12S, R91W, 6th PM:

Section 35, all;
Section 36, lots 1 to 17, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and that part of
HES No. 134 lying in the NW $\frac{1}{4}$ NW $\frac{1}{4}$.

T13S, R90W, 6th PM:

Section 5, lots 7 to 10, inclusive, 15, 17 and 18;
Section 6, lots 8 to 17, inclusive.

T13S, R91W, 6th PM:

Section 1, lots 1 to 4, inclusive, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
Section 2, lot 1, and S $\frac{1}{2}$ NE $\frac{1}{4}$;
Section 12, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$.

The coal resource to be offered for lease is limited to coal recoverable by underground mining methods.

The Forest Service administered surface within this tract is:

T12S, R90W, 6th PM:

Section 32, lots 3 to 6, inclusive, lots 11 to 14, inclusive, and NW $\frac{1}{4}$;

T12S, R91W, 6th PM:

Section 35, lots 3, 7 to 22, inclusive, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The lands lie within the Paonia Ranger District about 2 miles north of the town of Somerset.

II. DECISIONS AND REASONS FOR DECISIONS

Decision. It is my decision to consent to the BLM offering the Elk Creek Coal Lease Tract for competitive sale. The decision generally implements described in Alternative D (see section VI of this ROD) because it best provides for protecting the surface resources, especially perennial drainages and associated ecosystems. My decision to consent is conditioned on the application of stipulations and mitigations as described in Section III of this ROD, and upon ensuring that subsequent mining will meet the performance standards of the applicable mining regulations. Figure 2, Elk Creek Coal Lease Tract, shows the specific lands covered in this decision.

Given the Forest Service mission of being stewards of the soil, air, and water resources, it is incumbent on me to adhere to the direction given by national policy, agency mission, Forest Plan guidance when making decisions. This decision balances the need to preserve watershed integrity and associated ecosystems, and protect existing uses while recovering the mineral resource. This decision makes available about 23 million tons of coal for recovery in the D coal seam from the lease tract. (The B coal seam has either been previously mined or is non-existent on the Elk Creek coal lease tract.)

Reasons for Decision. The decision is based on several criteria, some of which are summarized in this section. Each alternative was analyzed and compared to Forest Plan goals, objectives, standards and guidelines. Several considerations regarding Forest Plan consistency are reflected in the decision, and are detailed below. The decision is consistent with the Forest Plan.

Relationship to Issues and Public Comment. The decision balances recovery of the coal resource with protection of National Forest resources and resource uses consistent with the applicable laws, regulations, Forest Service Policy and Forest Plan goals and objectives; standards and guidelines, and multiple-use decisions. Please see Section V, Issues Considered and Addressed, for a description of how issues and resource concerns analyzed in the Final EIS were considered during the decision-making process. This decision considers the public comment received.

Consistency with Multiple Use Management Direction. The Forest Plan assigns the lease tract to three Management Areas (MA's) (Forest Plan, pages III-114 to 187) including MA4D aspen management, MA4B wildlife habitat and MA9A riparian maintenance (Final EIS, Section 1.6.2, Forest Plan Consistency).

The MA4D aspen management area includes wood fiber production, visual quality and plant and animal diversity. Other activities may occur as long as management goals and objectives are maintained. There have been some timber production in the area, and small sales may occur sometime in the future (Final EIS, Section 3.13.2.5, Timber Operations.). Underground mining is not expected to have an impact on aspen management (Final EIS, Section 3.13.3.1).

The MA4B wildlife habitat area emphasizes habitat management for one or more indicator species. Other activities may occur so long as habitat requirements are maintained. The analysis shows minimal impacts for habitat capability (Final EIS, Section 3.9.3.2) with appropriate mitigations (see Section III of the ROD).

The MA9A riparian areas emphasizes management of riparian areas and their component ecosystems. The goals of the management are, in part, to maintain water flows to provide free and unbound water within the soil needed to create the distinctive vegetation community,

provide healthy, self-perpetuating plant communities and provide habitats for viable populations of wildlife and fish. Mineral activities may occur, but such activities must minimize disturbance to the riparian area. The bulk of riparian areas are associated with stream corridors in the lease tract area (Final EIS, Section 3.8.2.3 and Figures 12 and C/D 1 of the Draft EIS). This decision incorporates specific mitigation that precludes subsidence under the perennial drainages, and hence the associated riparian habitat, and therefore responds to the direction for riparian unit management.

The Forest Plan also subjects coal leasing to the application of Unsuitability Criteria as defined in 43 CFR 3461 (Final EIS, Section 1.6.2). The Unsuitability Criteria were applied to the Elk Creek Coal Lease Tract and the results are given in Appendix D of the Final EIS. After applying the criteria and including exemptions and exceptions, it was found that the tract was suitable for coal mining (Final EIS, Appendix D, page D-11). The decision is consistent with application of the unsuitability criteria.

Relationship To The Forest Service Natural Resource Agenda. When making this decision, the Forest Service's recent "natural resource agenda" was considered. The agenda states that the first priority of the Forest Service is to maintain and restore the health of ecosystems and watersheds. The agenda also gives watershed protection and ecological restoration the highest priority in the decision making process. The decision to protect the perennial stream watersheds and riparian ecosystems in the Elk Creek Coal Lease Tract is in concert with the principles of the natural resource agenda.

Relationship to Purpose and Need. The decision responds to the need to consider leasing additional Federal coal lands and the need to allow coal resource development under applicable federal laws (Final EIS, Section 1.3). The decision also determines the conditions under which coal resources may be recovered in order to protect non-coal resources. The decision also responds to the need for the applicant (Oxbow Mining, Inc.) to access additional reserves for the purposes of remaining competitive in the coal market and maintain existing contracts, and to continue contributing to the local economy. Further, this decision responds to the need for clean "compliance" coal for use in the electrical power generation industry to meet objectives of the Clean Air Act.

III. REQUIRED MITIGATION/STIPULATIONS AND MONITORING

Federal Regulations at 43 CFR 3400 pertaining to Coal Management make provisions for the Surface Management Agency, the surface of which is under the jurisdiction of any Federal Agency other than the Department of Interior, to consent to leasing and to prescribe conditions to insure the use and protection of the lands (Final EIS, Section 1.5, Decisions to be Made). Part of this lease contains lands the surface of which are managed by the United States Department of Agriculture, Forest Service, Grand Mesa-Uncompahgre-Gunnison National Forests.

Forest Service consent to leasing the Elk Creek Coal Lease Tract is conditioned on application of stipulations listed below. All the stipulations pertain to the Lessee responsibility for mining operations on the lease area and on adjacent areas as may be specifically designated on National Forest System Lands. The stipulations are based on mitigations discussed in Chapter 3 of the Final EIS, stipulations included in Appendix J of the Final EIS, and other resource concerns.

At the end of each Mitigation/Stipulation, there may be a parenthetical reference (e.g.: Mitigation V-1 and V-2). This refers to where the mitigation was identified in Chapter 3 of the Final EIS. In this example the mitigation could be found in the mitigation table for the Vegetation resource.

1. The Lessee shall be required to perform a study to secure adequate baseline data to quantify existing surface resources on and adjacent to the lease area. Existing data may be used if such data are adequate for the intended purposes. The study shall be adequate to locate, quantify and demonstrate the interrelationship of the geology, topography, surface hydrology, soils, vegetation and wildlife. Baseline data will be established so that future programs of observation can be incorporated at regular intervals for comparison. (Mitigations S-1, S-2, SO-1, SW-1, GW-1, GW-6, V-2, W-2, Final EIS, Appendix J).
2. With specific regard to water resources, the Lessee will be required conduct a survey of all existing water resources (including gain/loss analyses on Hubbard Creek) adjacent to, originating on or flowing over the lease tract (including state adjudicated water rights, stock ponds, springs, etc.) which may be impacted by subsequent mining activities. At a minimum, this inventory will include: the water right holder, location, source, amount of decree, beneficial use, current and historical flow (including seasonal/annual variation), and the appropriation and adjudication dates.
3. The Lessee shall be required to establish a monitoring system to locate, measure, and quantify the progressive and final effects of underground mining activities on the topographic surface, subsurface and surface hydrology, soils and vegetation. The monitoring system shall utilize techniques which will provide a continuing record of change over time and an analytical methods for location and measurement of a number of points over the lease area. (Mitigations S-2, S-3, SO-1, SW-2, SW-7, SW-8, SW-9, GW-1, GW-2, GW-6, Final EIS, Appendix J).
4. Mining that would cause subsidence will not be permitted under perennial portions of Hubbard Creek. Further, mining that would cause subsidence will not be permitted within a zone under these drainages created by projecting a 25 degree angle of draw (from vertical) from the surface expression of the creeks down to the top of the coal seam to be mined. (Mitigations SW-3, SW-5, SW-7, GW-2, GW-3).

5. If there is reason to believe that new individuals or populations of Threatened or Endangered, or Sensitive (TES) species of plants or animals, or migratory bird species of high Federal interest occur in the area, the Lessee shall be required to conduct an intensive field inventory of the area to be disturbed and/or impacted. The inventory shall be conducted by a qualified specialist and a report of findings will be prepared. A plan will be prepared making recommendations for the protection of these species or action necessary to mitigate the disturbance. The cost of conducting the inventory, preparing reports and carrying out mitigating measures shall be borne by the Lessee. (Mitigations V-2, TW-1, TW-2).

6. With respect to bald or golden eagle nests which may be established on the Elk Creek Coal Lease during the life of the project, the following shall apply:

- a. No new permanent surface facilities or disturbances shall be located within a 1/4 mile radius buffer zone around each bald or golden eagle nest site.
- b. No above ground activities will be allowed within a 1/2 mile radius buffer zone around each active eagle nest site from November 15 to July 30 for bald eagles, and around each active golden eagle nest site from February 1 to July 15.
- c. Any proposed surface facilities, disturbances or activities (noted above) in, or adjacent to, these buffer zones will require approval from the BLM or USFS on a site-specific basis, after consultation with the U.S. Fish and Wildlife Service.

7. With respect to bald eagle winter roost sites or concentration areas which may become established on the Elk Creek Coal Lease during the life of the project, the following special stipulation shall apply:

No above ground activities will be allowed within a 1/4 mile radius of winter roosts between November 15 and March 15; development may be permitted at other periods. If periodic visits are required within the buffer zone after development, activity should be restricted to the hours of 10:00 am and 2:00 pm from November 15 through March 15.

8. With respect to other raptors (except American Kestrel) which may occur or become established on the Elk Creek Coal Lease during the life of the project, the following special stipulation shall apply:

Conduct surveys for nesting raptors on the lease tract prior to development of any surface facilities. No surface activities will be allowed within 1/2 mile radius of active nest sites between the dates of February 1 and August 15, unless authorized BLM or USFS on a site specific basis.

9. No surface disturbance or facilities will be located in occupied Southwest willow flycatcher habitat. Prior to any planned disturbance within riparian habitats on the lease, the Lessee must: 1) Survey the area of the proposed disturbance for suitable Southwest willow flycatcher habitat, and survey all suitable habitat for the presence of the species. All habitat and species surveys must be in accordance with the accepted U.S. Fish and Wildlife Service protocol; 2) Provide the

results of all surveys to the U.S. Fish and Wildlife Service, the Uncompahgre Field Office of BLM and the Paonia Ranger District of the USFS; 3) If suitable habitat or individuals are located in the area, consultation with the U.S. Fish and Wildlife Service will be required to determine suitable conservation measures to prevent a "take" under Section 9 of the Endangered Species Act. Conservation measures may include avoidance of the occupied habitat, establishment of a buffer zone and seasonal restriction around occupied habitat, or others developed for the specific site. In accordance with current protocol, surveys for the presence of the species are valid for only one year.

10. Cultural and Paleontological Resources. Prior to any surface disturbing activities, including subsidence, the lessee shall conduct a cultural resources survey and paleontological assessment of all previously unsurveyed areas that will be directly impacted by operations under this lease. The survey shall be an intensive field inventory of cultural, historical, and archaeological values, including, but not limited to, any and all objects of antiquity, historic or prehistoric ruins and artifacts, or other specimens of scientific interest. If the paleontological assessment demonstrates a need for a site specific inventory, this survey will also be performed.

(1) Surveys shall be conducted by a qualified professional cultural or paleontological resources specialist approved in advance by the Paonia District Ranger. A report on the survey and recommendations for protecting any identified cultural or paleontological resources shall be submitted to the Paonia District Ranger. After review and approval of the report, surface disturbing operations may be further conditioned with the imposition of additional stipulations for protection of the identified cultural or paleontological resources.

(2) The cost of the cultural or paleontological resources survey, the report, and any measures to protect cultural or paleontological resources identified thereby shall be borne by the lessee. All identified items shall remain the property of the appropriate surface owner, but the United States reserves its right and obligation under applicable law to take action necessary to protect, preserve, or acquire such items.

(3) If any items or features of historical, cultural or archaeological value are discovered during lease operations, the lessee shall immediately notify the Paonia District Ranger and shall not disturb such items or features until the Paonia District Ranger issues instructions. If the lessee is ordered to take measures to protect any items or features of historical, cultural or archaeological value discovered during lease operations, the cost of the measures shall be borne by the lessor and such items and features shall remain under the jurisdiction of the United States.

The cost of conducting the inventory, preparing the reports and carrying out mitigating measures shall be borne by the Lessee. Of particular concern in this lease area are uninventoried cultural resource sites associated with rock overhangs and escarpments. (Mitigation C-1).

11. Any surface disturbance related to installation of degasification boreholes, ventilation shafts, or any other surface-disturbing activity must be approved by the surface management agency. The Lessee/operator will be responsible for soil preservation/protection and final reclamation. For reclamation that would require reseeding, a certified weed free source of seed would be used. The Lessee will be responsible for controlling spread of, and eradicating noxious weeds. (Mitigation SO-1, SO-2, and V-1 and V-3, Final EIS Appendix J).

12. The Lessee shall replace in a manner consistent with State law the water supply of any owner of a vested water right which is proximately injured as a result of the mining activities. (Mitigation SW-4)

13. The Lessee shall formulate a water replacement plan to replace the possible loss of water resulting from mining activity of the Elk Creek Coal Lease. The water replacement plan will include all existing water sources, including those presently adjudicated and historically put to beneficial use in the Hubbard Creek drainage. The water replacement plan for each respective drainage shall be developed after consultation with affected water right users, and Federal and State authorities, and shall be approved by state authorities before mining in the particular drainage. At a minimum, the water replacement plan will require, upon injury, replacement of water of suitable quality and water right seniority to provide for all existing uses (including sources supporting livestock and ecosystem, and other land uses as authorized by 36 CFR 251) and be delivered to existing points of diversion in a timely manner. As part of each water replacement plan the lessee shall demonstrate its legal and physical ability to implement said plan. A source of replacement water may include, but is not limited to, the transfer of water rights, an augmentation plan, a long term water use lease, or compensatory storage. (Mitigation S-4, SW-4, Final EIS, Appendix J).
14. Existing Forest Service owned or permitted surface improvements will need to be protected, restored or replaced to provide for continuance of current land uses (Mitigation S-4, SW-6, Final EIS, Appendix J).
15. A pillar stability analysis shall be used to design chain or barrier pillars for long-term structural integrity where needed to protect surface resources.
16. The Lessee shall provide for the suppression and control of fugitive dust on roads used by the Lessee. (Mitigation AQ-1)
17. Fueling and lubricating vehicles will be prohibited within 100 feet of streams and wetlands. No fuel storage will be allowed within 500 feet of any water bodies (Mitigation AR-1).
18. If new road access is required for construction of degasification boreholes or ventilation shafts, new accesses will be obliterated. Until obliteration, all new access will be closed to the public. Long term access will be by foot and horse (Mitigation TW-3).
19. No surface occupancy or use is allowed on the lands defined as a wetland, floodplain or riparian area (Final EIS, Appendix J).
20. Specific approval will be required for locating drill sites, degasification boreholes or ventilation shafts or any other surface disturbances (if they are needed) in areas of moderate geologic hazards and on slopes ranging from 40 to 60 percent. (Final EIS, Appendix J)
21. Drill sites, degasification boreholes, ventilation shafts or any other surface disturbances will not be located on slopes in excess of 60 percent or in areas of high geologic hazard (Final EIS, Appendix J).
22. With regard to protecting elk on the winter range and minimizing surface damage, no surface use (exploration, drilling and development activity) will be allowed from October 1 through May 15, or whenever conditions in the spring allow operations without causing surface damage. Operations between October 1 and the Friday preceding regular big game hunting season may be allowed during dry weather upon written authorization of the Forest Service District Ranger. (Final EIS, Appendix J).
23. Lands contained within this lease are subject to the Forest Service Interim Rule, "Administration of the Forest Service Development Transportation System: Temporary Suspension of Road Construction and Reconstruction in Unroaded Areas", *Federal*

Register/Volume 64/Friday, February 12, 1999, pages 7290 through 7305. These lands will also be subject to the final road management policy which will be set in 18 months.

No road construction will be allowed within the unroaded area until the Forest Service adopts it's revised road management policy or 18 months from the effective date of this final interim rule, whichever is sooner.

24. Stipulation for Lands of the National Forest System Under Jurisdiction of the Department of Agriculture.

The licensee/permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior, (2) uses of all existing improvements, such as Forest Development Roads, within and outside the area licensed, permitted or leased by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by a permit/operating plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests
2250 Highway
Delta, CO 81416

who is the authorized representative of the Secretary of Agriculture.

signature of licensee/permittee/lessee

The analysis in this EIS considered cumulative and off-site impacts (Final EIS, Chapter 3). It is my understanding that this decision may cause off site impacts that are outside the jurisdictional authority of the Forest Service to manage. The Final EIS discloses these impacts and lists potential mitigations, and further shows the agency with appropriate jurisdiction. The following is included to show mitigations that are recommended for other agencies to consider during their approval/permitting process with regard to this project:

1. Provide additional air quality data for any future air quality permitting in the North Fork Valley (Mitigation AQ-2).

IV. PUBLIC INVOLVEMENT

As required by NEPA (40 CFR 1501.7), the BLM/Forest Service provided for an early and open process to determine the scope of issues to be addressed and to identify the issues related to this EIS. Elements in the scoping process included the following:

- Publication of a Notice of Intent to prepare an EIS in the Federal Register (dated April 13, 1999);
- The description of the Purpose and Need, and the Proposed Actions including the nature of the decisions to be made;
- The collection of existing data and information to address the two potential lease tracts and the exploration license area;
- The initiation of public and government participation in the EIS process;
- The determination of the type and extent of analysis to be used in the preparation of the EIS;
- The identification of government agencies involved and appropriate responsible officials from the lead and cooperating agencies; and,
- The plans for the preparation of the EIS, including selection of a format for the document and development of a schedule for EIS completion and publication.

An EA document was originally prepared on the Elk Creek Coal Lease application. Relevant information from the EA has been incorporated into the EIS. In addition, the Delta/Montrose Public Land Partnership and North Fork Coal Working Group (NFCWG) sponsored several community meetings regarding coal development in the North Fork Valley. Issues, concerns, and comments identified in those meetings are also incorporated into the EIS.

On April 22, 1999, the BLM and Forest Service held an agency scoping meeting to discuss the EIS. Representatives from the BLM, Forest Service, OSM, Colorado DMG, Colorado Division of Wildlife, Delta County, and Gunnison County were present. On April 28, 1999, the lead agencies met with representatives from the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service. On May 18, 1999, the lead agencies met with representatives of the Environmental Protection Agency (EPA). In addition, a project description and vicinity map were sent to the Northern Ute Tribe.

The purpose of these meetings was to familiarize these various federal, state, and local agencies with the various aspects of the North Fork Coal EIS and solicit their input on any issues regarding the planned work and the proposals.

As required by NEPA (40 CFR 1503), the general public, businesses, special interest groups, and government agencies were provided the opportunity to become informed and comment on this EIS process. The BLM and the Forest Service accomplished these goals by holding agency and public scoping meetings; public mailings; publishing of a Notice of Intent in the Federal Register; forming an interdisciplinary (ID) team; and preparing a scoping document.

The formal scoping process began on April 13, 1999 and ended on May 17, 1999. The BLM and the Forest Service held a public scoping meeting in Hotchkiss, Colorado on April 21, 1999.

From hearing testimony and public meeting input as well as from written comments, issues specific to the two potential coal lease tracts and the exploration license application were summarized and used as part of the criteria for completing the EIS document. Issues were used by the ID team for developing and screening alternatives, and evaluating consequences of the proposed actions. A synopsis of the issues identified for the proposed lease tracts and exploration license area is set forth in Section 1.8, Issues and Concerns, of the EIS document.

In April, July, and December 1999, newsletters were sent to individuals, organizations and agencies on the EIS mailing list to inform them on progress of the EIS and provide relevant information.

The Draft EIS was filed with the EPA and distributed to the public in late August 1999. The Notice of Availability for the Draft EIS was published in the Federal Register on September 3, 1999. In addition, the agencies transmitted press releases concerning the EIS project and process to newspaper, radio stations and television stations. The media outlets covered the North Fork Valley, Delta, Montrose, Crested Butte, Gunnison and Grand Junction areas.

A public information meeting was held on the evening of October 7, 1999 at the Hotchkiss High School (Hotchkiss, Colorado) to explain and answer questions on the Draft EIS and the coal leasing process. A formal public hearing was held on the evening of October 14, 1999 at the Hotchkiss High School for interested individuals and organizations to make oral comments and statements on the Draft EIS.

The formal comment period on the Draft EIS ended on November 3, 1999. Over 750 individual comments were received. Agency response to public comments are given in Appendix O, Public and Agency Participation and Involvement in the Draft EIS, found in the Final EIS.

Concurrent with the preparation of this EIS, the community has undertaken efforts to deal with issues related to growth and coal mining in the North Fork Valley. A broad spectrum of interests came together to form the North Fork Coal Working Group (NFCWG) and to address the issues identified. (See Final EIS Section 1.7.3, Community Efforts.)

The NFCWG is made up of local county governments, public interest groups, environmental groups, the mining companies, water user groups and concerned individuals. Other segments of the community including town and city governments, the Union Pacific Railroad, emergency service providers, and other interested groups and individuals have participated in meetings of the NFCWG and in public meetings sponsored by the NFCWG. The federal agencies have worked with the NFCWG as invited parties to provide information and resources related to the NEPA process and coal leasing in general.

The goals and objectives of the NFCWG are to work in a collaborative way and encourage the development of the community's vision for its future. The NFCWG has provided a forum to encourage community discussions, provided information and education on important issues, and developed potential mitigation and resolutions for many community issues. In conjunction with the NEPA process, the group has submitted information during scoping and provided comments on the Draft EIS.

We recognize the efforts and hard work of the NFCWG to seek common ground and to identify solutions to the problems identified by the community. As federal agencies, the BLM and the Forest Service recognize and encourage the efforts of groups like the NFCWG in addressing the off-site impacts of concern to the local community. Community based efforts, such as taken by the NFCWG, can be very helpful and constructive at resolving issues at the local level. As such, we applaud their efforts. We further believe that the Final EIS was improved as a result of the comments received from the NFCWG.

V. ISSUES CONSIDERED AND ADDRESSED

This section addresses issues for the Elk Creek Lease Tract. Environmental effects are described in Chapter 3.0, Environmental Analysis, of the Final EIS. Environmental protection measures are found in Section 2.9, Reclamation Measures, Section 2.10, Management and Mitigation, and Section 2.11, Monitoring Measures, of the Final EIS. Appendix H, Standard BLM Coal Lease Terms, Conditions and Stipulations, of the Final EIS outlines standard BLM coal lease terms, conditions and stipulations.

Major Issues of Importance to the Public

The major issues identified during the scoping process were socioeconomics, transportation of coal, subsidence related impacts to water resources and cumulative impacts. There were several references to "quality of life" issues. These were split mostly between socioeconomics and transportation impacts for the purpose of categorization.

Comments on the Draft EIS generally addressed the same important issues. Quality of life issues were more focused on noise and the public health and safety issues associated with railroad crossings. Comments on the Draft EIS were used to focus and improve the analysis in the Final EIS.

The EIS was written to consider specific applications for accessing federal coal lands and provides the most comprehensive analysis of coal activity in the North Fork Valley undertaken in recent years. The applications are related in time and proximity and the agencies analyzed the three proposed actions under one EIS in order to best serve the requirements of NEPA. At the planning level, the Forest Service's Forest Plan and the BLM's Resource Management Plan made the lands analyzed in the EIS acceptable for coal leasing and development.

In response to comments on the Draft EIS, the reasonable foreseeable development scenarios for coal development in the valley were expanded and improved. Analysis in any more detail of projects or scenarios considered speculative at best would not add to the NEPA or the decision making process.

Great effort has been expended in the preparation of the EIS to identify those significant environmental issues which are deserving of study. The EIS discloses and considers the impacts associated with these issues to support an informed decision. We have strived to identify all practical mitigation measures and discuss the effectiveness of each measure regardless of jurisdiction. We further identify the entity or agency that would have authority to or ability to implement these measures. We do not believe it is the role of the federal land management agencies to assert some broader control over what goes on in the North Fork Valley and to do so may in fact be unwelcome and/or illegal.

We are very supportive of the community's efforts to address the very real effects of expanded coal development. The North Fork Coal Working Group (NFCWG) is an excellent example of a successful partnership that has been formed within the local community. The group has made substantial progress in a collaborative way to address off-site impacts that fall outside the regulatory jurisdiction of the BLM and Forest Service. While we may have no jurisdictional authority over some of the community agreement provisions, we will notify potential bidders on the lease of the community efforts. Potential bidders would then be apprized of the community expectations for responsible resource development and would have the opportunity to obtain further information.

More specifically, the socioeconomic analysis addressed the impacts of the lease/no lease decision before the agencies. The analysis took a thorough look at the role of coal in the economy and the interrelationships of coal with other segments of the economy. In addition, after release of the Draft EIS we were able to obtain access to the locally developed "REDP" data (incorporated in the Colorado Department of Local Affairs LEIFA data set). The socioeconomic modeling was rerun and the results reported in the Final EIS. Generally, the results were within 10% and the causative factors were highlighted. Due to the longwall mining methods being employed, the effects of the decision between the no action decision and the decision to lease is not so much related to the levels of coal production per year, but rather the duration of coal production from the mines over time. Ultimately, when the current and any future mine reserves are depleted, the economy will feel the effects of the mine closures.

Transportation issues focused on railroad issues. The railroad traffic necessary to transport coal to market will approximately double. This reflects the combined production of all three mines in the North Fork Valley, not just the two mines making the lease applications. The agencies believe they have no direct jurisdiction over railroad operations. Further, the agencies see no fair, reasonable or meaningful way within their authority to deal with the issue through indirect means such as setting production limits or levying additional monetary fees or contributions. As stated above, we will apprise potential bidders of the commitments expected in the community.

The EIS analyzed the impacts of increased railroad traffic and especially focused on the public health and safety aspects at railroad crossings. For the Final EIS, an inventory of public railroad crossings was completed and some costing estimates for safety upgrades were prepared. Private crossings were not inventoried because they involve permits between private parties and the railroad. However, it is recognized that safety considerations are generally the same. This information is part of the administrative record and has been given to the community for their further use in prioritizing crossings, preparing grant proposals, etc. We believe the community efforts underway will be successful and will result in substantial crossing improvements.

The effects of noise are primarily associated with the operation of the railroad. As stated previously, the agencies do not have direct jurisdiction over railroad operations. However, the noise section was rewritten to better disclose and consider the potential impacts. For example, the effects of whistles was specifically added to the discussion. The agencies determined that no additional studies or inventories would add to the decision making process and consequently were unnecessary at this time. We acknowledge that affects to individuals can be disturbing. This is especially true for residents close to the tracks during normal sleep periods. Under certain meteorological conditions, disturbances can occur at greater distances. We have identified other mitigation that is available or proposed in Chapter 3. Adoption of some or all of these measures could help lessen the noise impacts.

Subsidence induced impacts to water resources was an important consideration. Alternative D, No Subsidence in Sensitive Areas, was specifically designed to address this issue and is the basis of the decision. The evaluation of the subsidence and potential impacts followed standard and accepted analysis practices. In addition, we subcontracted one of the foremost experts in the field of subsidence and with extensive personal experience in the valley to help us with the analysis. Specific mitigation measures are stipulated as part of this decision to ensure the protection of important water resources.

Resource Issues. The following discussion is presented in related resource categories. A listing of individual resource issues is found in Section S-1.4, Section 1.8, and at the beginning of each resource category in Chapter 3 of the Final EIS.

Air Quality. Effects to regional air quality as a result of this decision are estimated to be of little consequence (Final EIS, Section 3.1.3).

Topography, Geology and Soils. The land surface will lower as a result of subsidence, however these effects are unnoticeable to the casual observer (Final EIS, Section 3.2.3.2). A lowering of elevation in the Elk Creek Coal Lease Tract up to 8 feet may occur (Final EIS, Appendix K, Section 7.1). Impacts to other geologic resources would be minimal (Final EIS, Section 3.3.2.3). Subsidence may aggravate existing historic landslides, although the existing geologic instability and climate contributes to landslide potential (Final EIS, Section 3.3.3.2). The disturbance to soils is expected to be minimal, and estimated to be less than one percent of the tract area acreage (Final EIS, Section 3.4.4).

Surface Water and Groundwater Resources. Water resources in the Elk Creek Coal Lease Tract are generally associated with the perennial drainage in Hubbard Canyon, or occur as seeps and/or springs throughout the tract. The decision protects the water resources in Hubbard Canyon by precluding subsidence under the drainage. The risk to damage other seeps and springs occurring on the National Forest is low (Final EIS, Table 3.6-1).

Vegetation, Wetlands and Special Status Species. The overall lowering of the land surface would not affect the overall health and distribution of the terrestrial plant communities present. Further, clearing for degasification boreholes or ventilation shafts would impart only minor effects on timber and range resources. No Threatened or Endangered plant species occur within the Elk Creek Coal Lease Tract (Final EIS, Section 3.7.3). No Forest Service Sensitive Species occur in the lease tract area (Final EIS, Table 3.7-1). However, suitable habitat for the Hapman's Coolwort may be present about two miles north of the lease tract area. The decision precludes subsidence under Hubbard Creek so impact to other potential habitat is minimal. The decision further protects the riparian and wetlands present in the area by precluding subsidence under perennial drainages.

Wildlife, Aquatic Resources/Fisheries and Special Status Species. The decision would have minimal effects to terrestrial wildlife (Final EIS, Section 3.9.3.2). A key concern is the potential reduction of water availability and translated effects to habitat. The decision protects important water sources, and preserves habitat and protects live water sources. No adverse effects to aquatic species are expected (Final EIS, Section 3.10.3.2). Effects to special status species is anticipated to be minimal and the decision further protects important habitat.

Cultural Resources. No cultural resource sites have been identified on the Elk Creek Coal Lease Tract. This decision does not adversely compromise cultural resources.

Noise. Noise is an off site impact of concern. The major noise concern is from increased truck and rail traffic. Noise mitigations are referenced on Table 3.12-1 of the Final EIS and in Section III of this ROD. Also see Major Issues of Importance to the Public presented earlier in this section.

Land Use. This decision will have little effect on the existing land uses (Final EIS, Section 3.13.3).

Transportation. This decision will have minor effects on the local transportation on lands within the Elk Creek Coal Lease Tract. There is concern however over public safety and off-site impacts generated from truck and rail transportation of coal from the lease tract through the local communities. Mitigations are referenced on Table 3.14-6 of the Final EIS,

and are discussed in Section III of this ROD. Also see Major Issues of Importance to the Public presented earlier in this section.

Socioeconomics. The decision reasonably allows for recovery of the coal resource while providing measures to protect the environment. The decision to consent to leasing of additional coal reserves supplies the local economies with long term economic benefits. There are other impacts and benefits to both the social and economic conditions as a result of the decision. Also see Major Issues of Importance to the Public presented earlier in this section.

VI. ALTERNATIVES CONSIDERED

This ROD covers specific decision for the Elk Creek Coal Lease Tract. The EIS analyzed the affects of both the Elk Creek and Iron Point Coal Lease Tracts. Alternatives were developed and analyzed to respond to the purpose for and need of the proposed actions, to address social and environmental issues, to respond to public and agency concerns and input, and to satisfy NEPA regulations. Three "action" alternatives and the "No Action" alternative were considered in this EIS. These four alternatives encompass a complete spectrum of possible decisions ranging from no leasing, to leasing and allowing subsidence over the complete tract, to limiting mining that would cause subsidence in order to protect sensitive surface resources. This comprehensive range allows for selecting an alternative which allows access to coal reserves and conservation of surface resources.

Under the action alternatives considered, the BLM would hold coal lease sales for the Iron Point and Elk Creek Coal Lease tracts, subject to coal lease stipulations of the BLM and the Forest Service, as well as any coal lease stipulations developed as part of the EIS process. As such, the Final EIS analyzes the effects of a Reasonably Foreseeable Development Scenario (RFD) for the coal lease tract. The RFD's are discussed in further detail in Section 2.4 of the Final EIS. Chapter 2 of the Final EIS contains a complete description of the alternatives and process used to identify them. It should be noted that the Lease by Application process is, by law, an open, public, competitive, sealed-bid process whereupon the coal lease would be granted to the highest qualified bidder. Following is a summary of the alternatives considered in detail.

Alternative A - No-Action

This alternative assumes no leasing would occur. NEPA requires that a "No-Action" alternative be considered in environmental documents. Under the No-Action Alternative, the lease tract would not be offered for sale at this time. The coal operations would continue operating under the approximate production levels permitted by the Colorado DMG.

Alternative B - Proposed Action

The proposed action for the Iron Point Coal Lease Tract assumes a northern boundary south of the Terror Creek Reservoir, along with an area that would provide access under Terror Creek to coal reserves to existing federal coal lease (C-37210) in an area known as the Bowie No. 1 "pod." There would be no subsidence under the Curecanti-Rifle 230/345 kV electric transmission line which essentially is parallel to Terror Creek. Production from the Iron Point Coal Lease Tract was assumed to be 5 million tons per year from the D coal seam via longwall mining techniques. An original estimate of 24 million tons of recoverable reserves are contained within this lease tract for the D seam. In addition, the lease tract would provide for access to the "Bowie No. 1 pod" which contains an estimated 10 million tons of remaining coal reserves.

The proposed action for the Elk Creek Coal Lease Tract encompasses lands lying between Elk Creek and Hubbard Creek. The tract would be mined by longwall techniques. The production on this tract would be at 5 million tons per year from the D coal seam. An estimated 21 million tons of recoverable reserves are contained within this lease tract for the D seam.

Alternative C - Multiple Seam Mining

This alternative is similar to Alternative B, with the inclusion of additional B seam coal reserves in the Iron Point Coal Lease Tract. An area was also added to the Iron Point Coal Lease Tract

in the Terror Creek drainage to facilitate flexibility in locating entries beneath Terror Creek for access to coal in the Bowie No. 1 "pod". Additional surface area and reserves that are located between the Iron Point and Elk Creek Coal Lease tracts were added to the Elk Creek tract. In Alternative C, mining would be completed by longwall techniques, and coal production would be the same as outlined in Alternative B. Recoverable coal reserves in the Elk Creek tract are estimated to be 23 million tons in the D seam. The B seam in the Elk Creek coal lease tract has either been previously mined or is nonexistent. Recoverable coal reserves in the in the Iron Point tract are estimated to be 41 million tons in the D and B seam.

Alternative D - Subsidence Protection

This alternative would be essentially the same as Alternative C, with the limitation that there would be no subsidence under Terror or Hubbard creeks, or the Curecanti-Rifle 230/345 kV electric transmission line. For the Elk Creek Coal Lease Tract, there are approximately 2 million tons of coal less than in Alternative C.

Based on continuing geologic analysis for the area and since the issuance of the Draft EIS, the boundaries of the proposed Iron Point Coal Lease Tract have been modified. It appears that the B and D coal seams thin and split into seams of unmineable thickness toward the northwest part of the tract. The re-alignment of the boundary provides additional subsidence protection to Terror Creek Ditch and Reservoir. In addition, the continuing analysis indicates that the igneous intrusions may have "burned" portions of the B and D coal seams, leaving no mineable coal. Based on this re-evaluation of the lease tract, there are approximately 5 million tons of coal less in Alternative D than originally estimated for the Iron Point Coal Lease Tract in the Draft EIS. Minor additions of surface area were added in the southeast corner to help facilitate a safer mine plan.

VII. FINDINGS REQUIRED BY OTHER LAWS

Numerous laws require that decisions be consistent with their provisions. The Final EIS and ROD complies or is consistent with all applicable laws including but not limited to those listed below. In addition, a number of federal, state, and local permits and approvals would be required for actual mining of the coal in the Elk Creek Coal Lease Tract. See Appendix B, Agency Jurisdictions (Permits and Approvals), in the Final EIS.

A. National Forest Management Act (16 USC 1600 et seq.): The Grand Mesa-Uncompahgre-Gunnison National Forests Land and Resource Management Plan (Forest Plan) was approved September 29, 1983 as required by this Act. The Forest Plan was amended September 23, 1991. The Forest Plan provides direction and guidance for all resource management activities on the Forest. This management direction is achieved through the establishment of Forest goals and objectives, standards and guidelines, and Management Unit direction. Project implementation consistent with this direction is the process by which we move toward the desired condition described by the Forest Plan. Forest Plan direction provides the sideboards for project planning. The Final EIS displays the Forest Plan and Management Unit goals and objectives and the standards and guidelines applicable to the Elk Creek Coal Lease Tract (Final EIS, Section 1.6.2). The alternative development process and the management goals of the alternatives are described in the Final EIS, Chapter 2, while the environmental consequences of the alternatives are displayed in the Final EIS, Chapter 3. The decision is consistent with Forest Plan direction.

B. Federal Land Policy and Management Act of 1976: This Act allows the granting of land use permits on National Forest System lands. The regulations at Code of Federal Regulations Title 36 Part 251 (36 CFR 251) guide the issuance of permits under this Act. Land use permits are granted on National Forest System lands when the need for such is consistent with planned uses. The decision is consistent with this Act.

C. National Environmental Policy Act of 1969 (NEPA) The analysis in support of my decisions was performed under the authorization and regulations set forth in NEPA. Due NEPA process was followed including public scoping (Final EIS, Section 1.7 and Section IV of this ROD), identification of issues (Final EIS, Section 1.8 and Section V of this ROD), development of alternatives (Final EIS, Section 2.0 and Section VI of this ROD), disclosure of environmental consequences (Final EIS, Chapter 3), and public comment (Final EIS, Volume 2, Appendix O and Section IV of this ROD). The entirety of documentation for this project supports compliance with this Act.

D. Mineral Leasing Act of 1920, as Amended by Federal Coal Leasing Amendments Act of 1975: The proposed leasing actions of the proposed action were processed and analyzed in accordance with the Mineral Leasing Act 1920, as amended by the Federal Coal Leasing Amendments Act of 1975 and other laws. The Mineral Leasing Act authorizes BLM to process, issue, and administer coal leases in accordance with other appropriate laws, regulations and authorities. It requires consent of the surface management agency for leasing and provides for the surface management agency to require such conditions as it may prescribe with respect to the use and protection of the non-mineral interests in those lands. In regard to the proposed actions, the Forest Service is the surface management agency. The decision is consistent with these authorities.

E. Surface Mining Control and Reclamation Act of 1977 (SMCRA): This evaluation was completed understanding that the regulations contained in SMCRA and the subsequent Federal Regulations, and the approved Colorado Surface Coal Mining Reclamation Act will be implemented at the permitting phase (Final EIS, Section 1.5). These acts authorize Colorado Division of Minerals and Geology to administer/enforce approved coal mining operations on Federal lands with prior consent/concurrence of the surface management agency and conditions prescribed by the surface management agency for the protection of non-mineral interests. Portions of the Elk Creek Coal Lease Tract lies on National Forest System lands with Federal coal reserves. The Forest Service is the surface management agency. The decision is consistent with these authorities.

F. Unsuitability Criteria for Coal Development: Federal regulations in 43 CFR 3461 state that 20 "unsuitability criteria" must be used to determine the suitability of lands for coal leasing. The Forest Plan requires application of the unsuitability criteria. The unsuitability criteria were applied to the unleased lands in the Elk Creek Coal Lease Tract, and documentation is contained in the Final EIS, Appendix D. The findings were that the tract was determined suitable for coal mining following application of criteria 3, 4, 5, 6, 7, 8, 10, 13, 16, 17, 18, 19 and 20, and that criteria 1, 2, 9, 11, 12, 14 and 15 were found to be suitable after applying exemptions and exceptions. Detailed information pertaining to special status species was covered in a Biological Assessment/Biological Evaluation (administrative record). The decision is consistent with application of the unsuitability criteria.

G. The Endangered Species Act (16 USC 1531 et. seq.): In accordance with Section 7 (c) of the Endangered Species Act, as amended, a list of the listed and proposed threatened or endangered species which may be present in the Elk Creek Coal Lease Tract was requested from the US Fish and Wildlife Service (USFWS) (Final EIS, Table 3.9-1). The information provided indicated that bald eagle is a wintering species along the North Fork of the Gunnison River, near the lease tract. It was also identified that suitable habitat for the Southwest willow flycatcher may be present in the lease tract.

As required by the Act, Biological Assessments were prepared addressing the potential impacts to these species (administrative record). The analyses concluded that this project would have no effects to important or critical habitats for the bald eagle or the Southwest willow flycatcher (Final EIS, Section 3.9.3.2) or the endangered Colorado River endangered fish species (Final EIS, 3.10.3.2). This assessment has been reviewed by the USFWS who issued a biological opinion on January 13, 2000. The eventual lessee will furnish to the regulatory officer at the Office of Surface Mining a revised estimate of average annual water depletion.

H. Forest Service Manual 2607.32 - Sensitive Species: The potential effects of this decision on sensitive species (Hapman's Coolwort, Spotted bat, Townsend's big-eared bat, Northern goshawk, Flammulated owl, Three-toed woodpecker, Black swift, Olive-sided flycatcher, Golden-crowned kinglet, Loggerhead shrike, Tiger salamander, Boreal toad and Northern leopard frog) have been analyzed and documented in Sections 3.7.3.5 and 3.9.3 of the Final EIS and the Biological Evaluation in the administrative record. Individuals or habitat may be affected, but there will be no trend towards Federal listing or loss of viability of any of the sensitive species due to this decision.

I. National Historic Preservation Act: SHPO was involved throughout the NEPA process. Additional consultation will be done at the mine plan stage (see Section I of this ROD). The Northern Ute Tribe was consulted on this project (Final EIS, Section 3.11.4). The purpose of this consultation was to identify tribal concerns with the project and to identify any sites to which traditional cultural values may be ascribed. The Northern Ute Tribe did not raise any concerns.

J. Secretary of Agriculture Memorandum, 1827: The decision is in conformance for prime farmland, rangeland and forestland.

K. Clean Water Act: The Clean Water Act (CWA) requires each State to implement its own water quality standards. The Beneficial Uses of water in the Elk Creek Lease Tract would be maintained during and following the project through the performance standards, analogous to soil and water conservation practices, as required by SMCRA. A mine permit issued for this lease tract will comply with the State standards for water quality preservation and monitoring.

L. Executive Order 119900 of May, 1977: This Order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. In compliance with this Order, Forest Service direction requires that an analysis be completed to determine whether adverse impacts would result (see Final EIS, Section 3.8). The decision to protect perennial streams and hence the associated wetland/riparian habitats supports this Order. The project through the performance standards, analogous to soil and water conservation practices, required by SMCRA will assure compliance with this Executive Order.

M. Executive Order 11988 of May, 1977: This Order requires the Forest Service to provide leadership and to take action to (1) minimize adverse impacts associated with occupancy and modification of floodplains and reduce risks of flood loss, (2) minimize impacts of floods on human safety, health, and welfare, and (3) restore and preserve the natural and beneficial values served by floodplains. In compliance with this Order, Forest Service direction requires that an analysis be completed to determine the significance of potential impacts to floodplains. No special floodplains were identified in the lease tract (Final EIS, Appendix D, Criterion 16).

N. Civil Rights: Based on comments received during scoping and the comment period for the Draft EIS, no conflicts have been identified with other Federal, State, or local agencies, tribal governments, minorities, women, or civil rights of any United States Citizen that would result from my decisions.

O. Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations.": Based on comments received during scoping and the comment period for the Draft EIS, no adverse environmental or human health effects on minority or low income populations have been identified that would result from this decision (Final EIS, Section 1.11).

P. Clean Air Act. The Clean Air Act of 1977 calls in part for preservation and protection of air quality in Class I air sheds. The coal is of high quality (referred to as "compliance coal") and its use in industry helps achieve national objectives of the Act. Effects to regional air quality as a result of this decision are estimated to be of little consequence.

Q. Forest Service Interim Road Policy. A portion of the Elk Creek Coal Lease Tract is roadless and was part of the RARE II inventory (see Section 3.13.2.10 of the Final EIS). To ensure that no part of this leasing decision precludes management options under review with the current Roads Moratorium, or the President's Roadless Initiative, construction of temporary access roads will not be allowed on this portion of the lease.

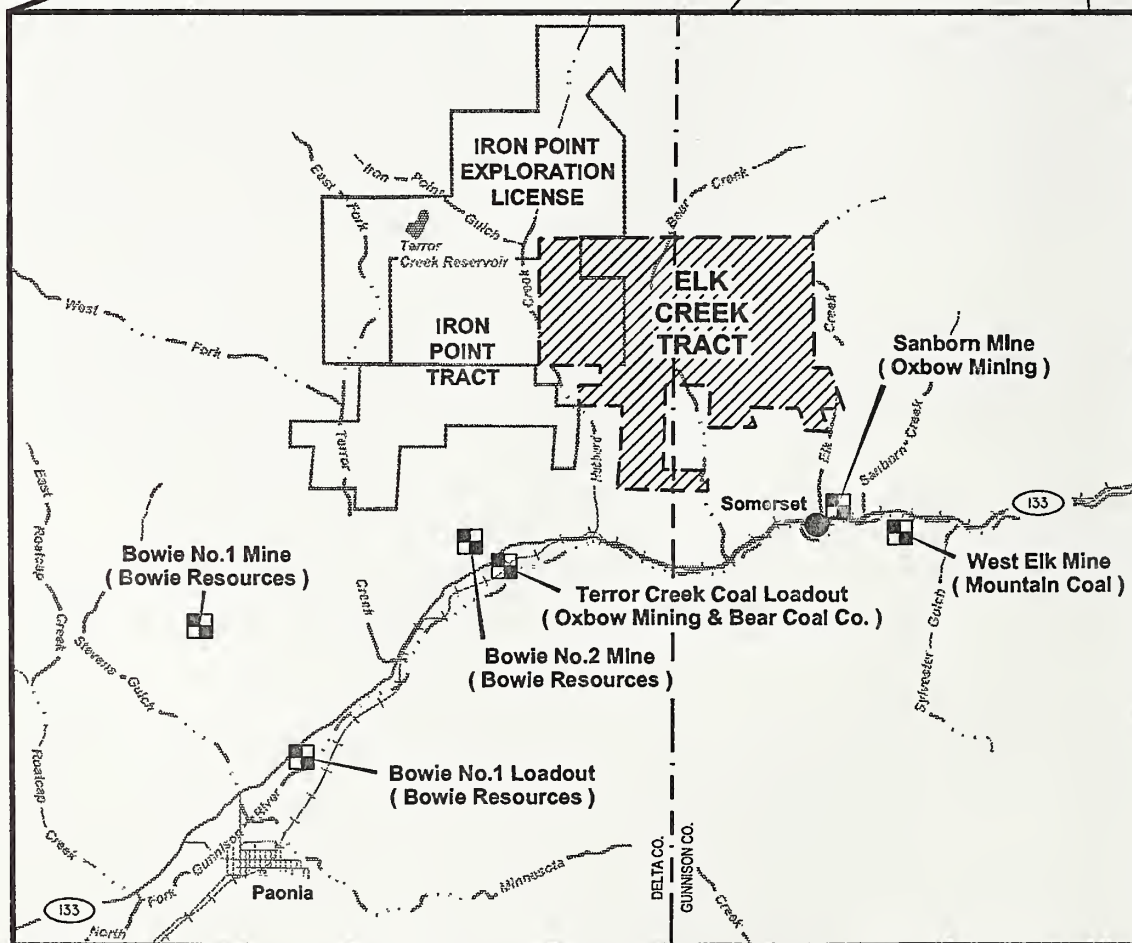
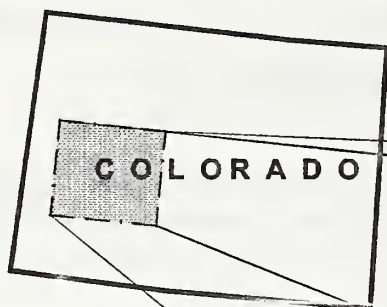
If the roadless policies and management direction from the Roadless Initiative EIS/ROD and final rule would accommodate temporary road building, this aspect of my decision may be revisited at the request of the lessee in a site-specific proposal. At that time, we would assess the need for additional environmental analysis and public involvement.

VIII. ENVIRONMENTALLY PREFERRED ALTERNATIVE

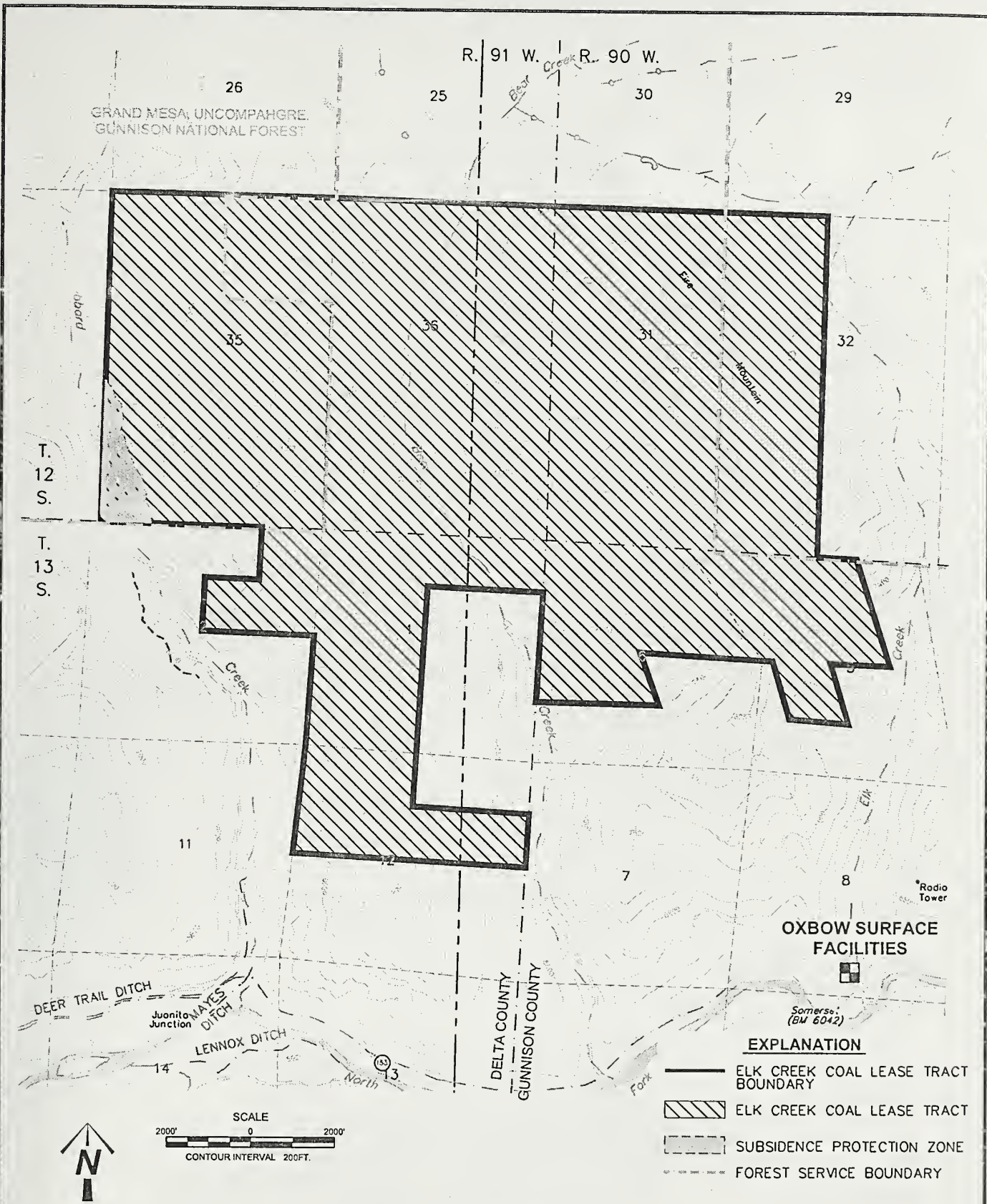
The Council on Environmental Quality regulations at 40 CFR 1508.2(b) require an agency to specify the alternative or alternatives which were considered to be the alternatively preferable in the process of reaching its decision. The definition of environmentally preferable is the alternative which causes the least damage to the physical and biological environment, and which best protects, preserves, and enhances historic, cultural, and natural resources.

Alternative A, the No-Action Alternative, best meets this definition. Alternative A would result in no mining or exploration activities under the existing NEPA document. No additional disturbance would take place. Alternative A was not selected, because it would not meet the purpose and need for the project.

Alternative D is the most environmentally preferable of the action alternatives for coal leasing. This alternative would allow for special subsidence protection under Terror Creek, Hubbard Creek, and the Curecanti-Rifle 230/345 kV electric transmission line.



ELK CREEK COAL LEASE TRACT - RECORD OF DECISION
FIGURE 1
GENERAL LOCATION MAP



ELK CREEK COAL LEASE TRACT - RECORD OF DECISION

FIGURE 2
ELK CREEK COAL LEASE TRACT



